IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

UNITED STATES OF AMERICA — No. EP-12-CR-1351-FM

v. — El Paso, Texas

(1) CHARLES MARQUEZ — September 3, 2014

SENTENCING

BEFORE THE HONORABLE FRANK MONTALVO

UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: Rifian S. Newaz
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For the Defendant: Joseph D. Vasquez
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and
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Proceedings recorded by stenotype. Transcript produced by computer-aided transcription.

15:05

THE CLERK: EP-12-CR-1351, United States versus Charles Marquez.

MR. NEWAZ: Good afternoon, Your Honor. Rifian Newaz and Steve Spitzer for the government.

THE COURT: Good afternoon.

MR. VASQUEZ: Good afternoon, Your Honor. Joseph Vasquez and Ruben Nunez for Mr. Marquez. And Judge, Mr. Marquez, again, is asking us to make an announcement of not ready and request a continuance orally from the court, having reviewed your ruling earlier today.

THE DEFENDANT: Your Honor, if I could speak.

THE COURT: Of course.

THE DEFENDANT: Good afternoon, Your Honor.

THE COURT: Good afternoon.

THE DEFENDANT: I am going to be discussing Rule 32, sentencing in criminal -- sentencing and judgment, the criminal rule book. What I wanted to address the court, first of all, was an issue that I had a couple of months ago when I was assigned a new presentence investigator. There was a conflict of interest that arose. I spoke to Mr. Vasquez and Mr. Nunez about that matter.

The presentence investigator came, I believe it was on a Monday, with Mr. Vasquez and addressed me about conducting a presentence investigation. Of course, after everything that I have been through, like I said, Mr. Vasquez had not been

15:07

diligent in coming to visit me at county jail. And what was happening is that, see, I had several issues because if you -- as you know, this is a very complex case. The complexity of this case, it's enormous. And, first of all, the point that I brought out to the attorney was is that, I said, Look, I said, this is the first time I have come across -- I met you, that you have come before me. And I told him that I wanted to ask him to come back on another day.

He very rudely and very sarcastically told me, You know what, we are either going to do it today, or we are not going to do it at all. He goes, What I will do is just get the information from the court, and we will go from there. We will proceed. And so I said your -- I said, Sir, whatever you got to do, you got to do, okay. But I'm just letting you know that I'm not prepared. I need to prepare before I can speak to you, before my -- with my attorney. So I said, What I want to do is I want to speak with him about issues that are going to affect my sentencing. And at that time, he told me, he goes, Well, he goes, I'm telling you right now, we are either going to do it right now, or we are not going to do it at all.

So that was the only time that I ever spoke to him, okay, as far as giving me an ample opportunity to prepare and also to advise my attorney, from what I know, that was the only time that he had spoken with Mr. Vasquez, okay. So according to Rule 32, the PSR officer must conduct a presentence

15:08 investigation unless the court finds on the record that enables it to exercise its sentencing authority. Okay. And then, of course, the court explains its findings in the record.

There is a lot of issues with me. I have medical, financial, and then, of course, everything that pertained to whatever information was introduced at trial.

Okay. As I said again, I had advised the presentence investigator, like I said, that I was not prepared beforehand about the interview. I had several issues to discuss with counsel before proceeding, was denied the right to interview. I had and still have many issues to discuss. Okay. But with whom? I asked Mr. Joseph Vasquez to recuse the PSR officer for denying me my right to interview, which is a direct due process violation. He never complied.

The court is and needs to be aware of my medical issues and needs. As of today, I have not discussed with anyone facilities, programs available, security for my type of alleged offense. I viewed one time -- met with the PSR officer one time and had or was given with the opportunity to respond or ask pertinent questions regarding the report findings, okay.

It says: Nor was given the opportunity to make objections. As the court is well aware that the defendant's interest is an accurate and reliable PSR and is upmost important. The PSR accompanies the defendant to the correctional institution and provides background information

15:10 for the Bureau of Prisons' classification summary to determine classification within the facility. Resolution of claims is very important, if not crucial, as well as inaccuracies. The purpose of promoting accuracy is defeated if the defendant is unable to contest erroneous information. Not being given the opportunity to properly review the PSR with counsel significantly reduces the likelihood that false statements will be discovered, as much of the content of the PSR will ordinarily be outside the knowledge of counsel.

Now, without the process, how can the court make a finding as to the accuracy of the challenged factual proposition or determine that no reliance will be placed on that proposition at the time of sentencing? It is possible that the bureau commission, in the course of reaching a decision on such matters as to the institution assignment, eligibility for programs, or computation of salient factors, will place a great reliance upon factual assertions in the report which are, in fact, untrue and which may remain unchallenged at the time of sentencing, because the defendant or his counsel deems the error unimportant in the sentencing court, the context.

It is -- it is vital to communicate to the correctional agencies the defendant's challenges to the information in the PSR and the resolution of the challenges. Disclosure is necessary to the defendant as it is counsel.

15:12 Deviation from the process results in a fundamental defect, which inherently results in a complete miscarriage of justice or an omission inconsistent with the rudimentary demands of fair procedure.

It is the court's duty to assert -- assure that relevant factors are considered and accurately resolved. Sentencing is the most critical stage of criminal proceedings and is, in effect, the bottom line for the defendant. Such a grave stage of the criminal proceedings could deprive the accused material valuable to his defense, but most important, his very liberty. Case law, which has indicated that requests for counsel by the defendant to be present, should be honored by the PSR officer. That's -- and in the courts, I am quoting U.S. v. Herrera-Figueroa, 918 F.2d 1430, Ninth Circuit (1990).

And for the defendant to meet with the PS [sic] officer concerning objections to this report. The bureau relies primarily on the PSR. Rule 32 was intended to guard against adverse consequences of the statements in the PSR that the court may have found to be false and is designed to protect the defendant of false allegations. Any deviation from Rule 32 will compromise the integrity of the process.

THE COURT: Anything else on that issue?

MR. VASQUEZ: No, Your Honor.

THE COURT: Thank you.

THE DEFENDANT: The other issue that I wanted to bring

15:14 up, Your Honor, is going to be the noncompliance from the government to disclose all discovery. I have discussed with my attorneys that, as of today, the government has failed to comply and sanctions need to be imposed because of the fact that there are phone calls, jailhouse phone calls dealing with Blanca Gabriela Guzman and Hermelinda Cordova Perez that were never fully disclosed to the defendant or his counsel. We have had --

THE COURT: Mr. Marquez, actually, your lawyers actually --

THE DEFENDANT: Yes.

THE COURT: -- filed a very well-drafted motion for new trial --

THE DEFENDANT: Uh-huh.

THE COURT: -- in which they addressed that. And I made a decision on that. So you don't have to bring that up again because it has been fully addressed.

THE DEFENDANT: Okay.

THE COURT: So is there anything else that you need to tell me that you haven't told me already? I heard you --

THE DEFENDANT: That's it.

THE COURT: -- about the presentence report, and I am going to address that in just a moment. But I just want to make sure that you are given your chance to say everything you have to say. So is there anything else?

15:15

THE DEFENDANT: Not at this moment that deals with this particular issue.

THE COURT: Okay, thank you. Thank you very much.

Mr. Vasquez, anything else that you want to add on to what your client just said?

MR. VASQUEZ: No, Your Honor.

THE COURT: Mr. Nunez?

MR. NUNEZ: No, sir.

THE COURT: Thank you. Thank you very much.

Mr. Newaz, any reply?

MR. NEWAZ: Sure, Your Honor. Quite frankly, the defendant was given more than fair chances to be interviewed. He actually got a second probation officer assigned to this case. I believe the court actually said on the record that you did not believe that Ms. Ronquillo did anything wrong or had any bias. But just out of an overabundance of caution to make Mr. Marquez feel better, you assigned yet another probation officer. He was given opportunity after opportunity after opportunity to provide what really would amount to statements that would simply help him or help the court learn about his background, and he chose not to do that.

He is trying to delay this case, as he has been for basically the entire time that we have had this case. The original sentencing was in February. It has been an additional six months. We believe he has had more than enough time to

15:16 have gone over the PSR, and the PSR adequately reflects everything that the court needs to be aware of.

THE DEFENDANT: Your Honor, in regards to that --

THE COURT: Yes, sir.

THE DEFENDANT: The -- what the prosecutor just said is part of his tactic as he has been using all along, because of the fact that I was assigned two -- I was assigned a new attorney in January. Okay. The complexity of the case, this is -- we are talking over 13,000 pages. For the prosecutor to make this kind of allegation, it is erroneous, such as this whole case. He has got no factual backing-up on that, other than allegations that he -- that he brought into this.

What I want to say is that Mr. Vasquez, we have had on several occasions proceedings regarding his conduct, his lack of attention on my case. I have no control over that, okay. And for Mr. Newaz to make that comment is absurd. It's irrelevant. And not only that, but the bottom line is is that I can only do what my attorney can offer me as far as assistance.

The county jail does not have an adequate library that would allow me, without Mr. Newaz or anybody else, complaining of me filing motions to the court complaining of the problems that I was experiencing, okay. So going back to that fact, I have proved to the court that I have not had adequate representation.

15:18

And as of this moment, like I said, there are several issues that are unresolved, which are in direct violation of Rule 32. Whether the prosecution believe that or not, since they had their show prepared and lies brought into this court, that that was the thing that was permitted to them. And, of course, the circumstances are what they are at this moment. But what I want to do is correct all the errors and prove to the court in sentencing, whether it is today or a week from now or a year from now, whatever, that the prosecution lied. They fabricated this story, didn't follow due process, the due process clause, nor the equal protection clause of the 14th Amendment, okay. And I will prove that in court.

Going back to it again, I have not been adequately prepared. And I'm -- as I'm sitting here, standing here telling you, I am not prepared to proceed. And like I said, without that relevant information and that -- the discovery, whatever I still don't have that's crucial, is going to affect my sentencing.

So I wanted to come in here, do this one time, instead of having to be shipped off, brought back again to be re-sentenced in case the -- the case may be. But the bottom line is is that, right now, my sentencing would be affected if I was to continue. And like I said, it would deny everything that Rule 32 stands for, as far as mitigating evidence to be presented before the court for the purpose of sentencing.

15:19 THE COURT: Thank you. I find that I have enough information before me from which to exercise my sentencing authority. The transcript of the last hearing we had in this case will reflect that I inquired about -- I inquired of Mr. Marquez if there were any issues that we needed to address, and there were none. And the record will further reflect that that last hearing was around August 11th when we were here in the government's motion to show cause.

With respect to his opportunity to be interviewed, the presentence report accurately relays the difficulties the probation department had in interviewing Mr. Marquez and his refusal to cooperate, particularly that is very poignant in light of the fact that I explained to him previously that there was no downside to him because he didn't have to discuss with the probation officer the offense conduct. And in terms of inaccuracies in the offense conduct described by the probation officer, I find that counsel for defendant did an outstanding job at pointing objections. Specifically, counsel for defendant submitted 23 objections to the presentence report. To be precise, in the letter of July 28th, counsel listed 22 objections, but actually there were 23 because there was one that was numbered number three twice. So I find that Mr. Marquez' objections not to proceed are simply dilatory and have no merit at all.

Counsel and Mr. Marquez, if you would please come to

15:22 the bench -- I mean, come to the podium. Mr. Vasquez, as lead counsel, did you have time to go over the presentence report with Mr. Marquez?

MR. VASQUEZ: I did, Your Honor.

THE COURT: And did you have time to talk to him about the sentencing today?

MR. VASQUEZ: I did, Your Honor.

THE COURT: Before -- before we proceed further, let me ask -- let me ask the government, do you intend to present any evidence?

MR. NEWAZ: No, Your Honor. I do, however, have three witnesses -- or three victims who wish to read victim impact statements.

THE COURT: Very well. So that will be --

MR. NEWAZ: We also had three other victim impact statements for those victims who are not here. I don't know if the court would allow those to be read into the record.

THE COURT: That's fine, because they are, in fact, part of the record. The ones -- the ones that were submitted already, I have read, and I will make them part of the record.

MR. NEWAZ: All right, Judge.

THE COURT: So I am going to instruct my courtroom deputy to file them under seal, but to make sure that they are part of the record for the court of appeals to consider, should counsel deem it appropriate to point to anything about them in

15:23 the appellate process.

MR. NEWAZ: Yes, Judge.

THE COURT: Insofar as -- insofar as the victims that wish to allocute or the reading of the additional statements, that should be part of the government's allocution, so I will give you the time.

MR. NEWAZ: All right, Judge.

THE COURT: I will give you the time to do that.

Mr. Vasquez and Mr. Nunez, I have considered all of your objections. I am going to make your letter of July 28th part of the record so that you preserve that on appeal. I am also going to make part of the record -- it is already part of the record, but I am going to ensure that it is, so that the record reflects that it is part of the documents that I reviewed in the process of ruling on those objections, the addendum prepared by the probation officer addressing the specifics of each of the objections. And I am also going to make part of the record, which this one is not yet -- I am going to make part of the record the letter from the government lawyers to the probation officer addressing each of your 23 objections.

Mr. Vasquez, that said, all of your objections are overruled.

The applicable sentencing guidelines in this case are as follows: Total offense level 43. Criminal History

15:25

Category I. Guideline provisions on counts one and two, life imprisonment; guideline provisions on counts four and seven, 120 months imprisonment capped by statute; count five, 240 months imprisonment capped by statute; count six, 60 months imprisonment capped by statute.

Supervised release, counts one, two, four, and five, five years to life; count six and seven, one to three years. Fine, 25,000 to 250,000. Special assessment, $100 per count for a total of $600.

Before I ask you to allocute on behalf of your client, and of course, before I ask you, Mr. Marquez, to speak on your own behalf, let me take care of a housekeeping matter. I entered a gavel order denying defendant's motion to continue the sentencing hearing filed yesterday. Obviously, the gavel entry is just that, it is just an entry reflecting the denial.

But so the record reflects what was the reasoning behind it, let me expand on that. Defendant's motion for continuance filed yesterday seeks continuance of this hearing to procure and obtain the services of two experts. One of these experts being a forensic psychologist or psychiatrist. And this forensic expert, in essence, would testify that, based on his review of the discovery and trial testimony, the alleged victims in this case did not testify in a matter that was consistent with the victim of a sex trafficking offense and a second expert, which out of respect for the sensitivities of

15:28 all involved, I will refer to as a gynecological expert, to testify that C.V.C. did not look underage. Both of these subject matters, if pertinent, would address issues dealt with in the actual trial of the case or what is also commonly known as the guilt or innocence part of the proceedings in this case. We are past that. We are in the sentencing phase of the case.

At the sentencing phase of the case, mitigation experts would be relevant, if any, but certainly not experts that deal with issues that were considered in the guilt or innocence phase. More importantly, the subject matter of both of these experts, that is, the subject matter of the forensic psychologist or psychiatrist and the gynecological -- the gynecological expert have to do with matters that were fully litigated and considered by the jury, and if anything, would just simply provide cumulative testimony.

So that said because, number one, those experts deal with credibility issues that were properly addressed by the jury and, actually, are the sole province of the jury, number one. And because those experts have nothing to do with mitigation testimony to be offered at the sentencing hearing, seeking, procuring, and obtaining that kind of expert testimony is not a basis for a motion to continuance of the hearing -- of the sentencing hearing.

Mr. Vasquez, is there anything you would like to say on behalf of your client before I issue my sentence?

15:30

MR. VASQUEZ: Your Honor, basically, we submitted a sentencing memorandum where we discussed the majority of the concerns that we have regarding this sentence. I haven't been involved in very many of these types of cases, but read -- if I read one case, I read 100, Judge. I read about every opinion I could find on these types of issues --

THE COURT: Mr. Vasquez, if you could redirect the microphone so that I can hear you better, go ahead.

MR. VASQUEZ: Dealing with these issues. And the sentences varied from 188 months to life. And there are numerous factors that were considered in these cases. And I understand that we -- you know, the act of prostitution and the act of engaging in sex is harm. And these women did suffer harm.

But in a lot of cases that I read, I mean, there was physical violence. And it's real hard to argue because I understand the allegations that were made in the report. But in regards to the threats to the women, I don't believe there are any allegations that he was -- that he hit anybody, that he threatened anybody with a firearm, that he caused injury himself to any of the individuals.

And in reading the transcripts and statements, everybody had a variation of a similar statement that may or may not have been given. And I guess, in reading it, one concern that he really did have was them getting the telephone

15:32 numbers of the clients or the customers and setting up dates on their own without going through him where he wouldn't make the money.

But nobody was ever injured. And although there were some allegations or statements that a car was burned down or somebody was beat up, either there was no effort to support that or it couldn't be found or it wasn't supported by any evidence, he himself didn't harm anybody in a physical sense. I know the allegations of sexual abuse and that -- and I'm not saying that that's not damage, but I know the court understands, I hope, what I'm trying to say. He never killed anybody. He never hurt anybody physically.

And I think those are factors, because in a lot of cases that I reviewed and that I read, those were factors that were involved in the cases. And the sentences in those circumstances were much lower than they are in this case. I know Your Honor talked about the convictions, and there is no changing that now at this point. We are at the sentencing. The jury heard the evidence, and they have spoken. The court considered the evidence and granted the Rule 29 motion as to count three, but denied it as to the other counts. And so he is here being sentenced for those charges.

But in regards to the statements, just that they all were inconsistent and went from different directions. I guess I'm trying to attack the credibility of the statements. But, 15:33 again, I recognize that the verdicts are already in, and I understand your ruling denying our last motion for continuance. He is being sentenced as a result of those verdicts. We are just asking Your Honor to consider something less than life. Mr. Marquez did engage in prostitution. And --

THE DEFENDANT: Your Honor, I would like to backtrack.

THE COURT: Yes, sir.

THE DEFENDANT: The very root of the issue was prostitution, coercement, enticement, and the other charges. I have spoken with counsel, and this is -- this is --

(Consultation off the record between Mr. Nunez and Defendant Marquez)

THE DEFENDANT: The bottom line is we discussed certain issues, and I am going to have to object to what counsel just said. This is just a problem, a continued problem that we are still having because there is a lack of preparation here. What I want to just tell you is that --

THE COURT: Let me --

THE DEFENDANT: -- as far as prostitution, it is all alleged.

THE COURT: Mr. Marquez, let me --

THE DEFENDANT: Yeah.

THE COURT: Let me offer a thought for you.

THE DEFENDANT: Uh-huh.

THE COURT: There is a difference between argument and

15:34 evidence.

THE DEFENDANT: I understand that. What I'm just trying to do is correct the statement --

THE COURT: Please, please, humor me for a second. Please humor me. Let me try to help you clarify something here. Your lawyer is simply making an argument. The record should reflect that the sentencing memorandum that Mr. Vasquez and Mr. Nunez filed on your behalf, which I spent a substantial amount of time reading, is solid. He wrote a very good sentencing memorandum on your behalf.

So I just want to make sure you understand -- you have -- you have clear in your mind -- and listen, and listen, let me tell you another thing. Let me explain to you the way the system works in a sentencing. I haven't made up my mind yet. That's why it is important that whatever your lawyer has to say, whatever he has to argue, let him finish first, because I am going to give Mr. Nunez a chance to add to what Mr. Vasquez said, and I am going to give you a chance to do the same thing. Then I'm going to turn to Mr. Newaz and Mr. Spitzer. I am going to do the same thing with them. And then I am going to turn to the victims and do the same thing with them.

And then after I hear all of that, I am going to make a decision. So if you -- if you would be kind enough and let Mr. Vasquez finish, and then I will give you whatever time you

15:36 need.

THE DEFENDANT: Okay.

THE COURT: Okay. Back to you, Mr. Vasquez.

MR. VASQUEZ: Thank you, Your Honor. The evidence presented at trial did show that he engaged in prostitution. But, again, the stories of the women were varieties. And I included that information in the sentencing memorandum, Judge, and I don't want to be repetitive to your court.

But I'm asking the court to consider a sentence other than life, and I'm asking you to consider significantly less amount of time than what is called for by the guidelines. And my rationale, again, is although there were allegations of violence -- and I understand, again, the sexual assault allegations are violence, and I know you are going to take that into consideration. But I'm asking you to consider a sentence much less than life in these circumstances. Thank you.

THE COURT: Thank you.

Mr. Nunez.

MR. NUNEZ: Thank you, Your Honor. I will be brief, sir.

THE COURT: Take your time.

MR. NUNEZ: This is the third sex trafficking case that I have been appointed to represent a defendant in federal court. The first one, and it's one that the court is familiar with, the Wiggins case.

15:37

THE COURT: Yes, sir.

MR. NUNEZ: In that case, there were five male defendants, five female defendants. There was ample evidence that those male defendants were beating, not only the female defendants, but the other victims as well.

The beatings included punching them in the face, broken noses, black eyes, busted teeth. There was evidence that the identification cards were taken away from the women, their cell phones, their computers. They were shuttled to and from the place where they were kept confined to the places of employment. There was a female defendant in the strip bars, being kept there so that she could spy on the other victims so that they would not get out of line.

In that particular case, the lead defendant got a 17-year sentence, Your Honor. The other male defendants, their sentences varied from about 15 to about eight years, I believe.

In Mr. Marquez' case, there is no evidence of that type of physical abuse against the women. In the Wiggins case, there was evidence of sexual misconduct. I believe at least two victims stated that they had sex unwillingly with some of the male defendants. The same is true in the Marquez case, Your Honor. There is at least two women, I believe one of them was H.C.P., that said that she did not want to have sex, and was forced to have sex with Mr. Marquez. A fact that Mr. Marquez denies, just as he denies that he engaged in

15:39 prostitution.

Because in the Wiggins case, Your Honor, there was ample evidence to support acts of violence against the women. Because that defendant only got 17 years, I submit to the court that a sentence less than that is appropriate in Mr. Marquez' case. Thank you.

THE COURT: Thank you.

Mr. Marquez. Mr. Marquez, if you will feel more comfortable, you can sit down and speak from your seat.

THE DEFENDANT: Excuse me. Your Honor, the first thing that I would like to start off with is the fact that Mr. Vasquez brought up right now, which deals with process violation and equal protections of the law, was the way the investigation was conducted. There were -- there was ample opportunity for the agents, as well as the prosecutor, to follow up -- follow up with leads that developed from day one, which would have been August 31 of 2011, was the date that Hermelinda Cordova Perez was arrested for prostitution.

The charges against her, of course, were for prostitution. At that time, the record will show was that the government was well aware that she was no longer working for me when she made that outcry of being a sex trafficking victim. And the problem that I have here is that if she wasn't working for me, why would she make the outcry of being a sex trafficking victim if she was working on her own and bringing

15:41 me into the picture?

The agents supposedly got tips from her that we were operating out of a hotel, at La Quinta on Lomaland, which they did a knock-and-talk. And during that investigation, they had spoken with approximately eight women. Those eight women were interviewed separately and were asked if they were being trafficked -- if they were trafficking victims. One of those victims is in here in the courtroom today, A.R.Q.

And the problem that I have here is that one of the girls that was interviewed during the knock-and-talk could not provide any identification. So she was taken in. I believe she had the identification of H.C.P. And H.C.P., like I said, was an individual that was arrested on August 31.

The point that I'm trying to make here is that Carolina -- I mean -- Carolina was an individual that was working for me on the day that they did the knock-and-talk, which is on September 1st, I guess hours after the arrest of H.C.P. And what happened was is that she was taken in, I guess, for having false documents, being in the country here illegally. Once she was arrested, taken away from the group, she made an outcry of being a sex trafficking victim, okay. She was given, I guess, the opportunity to stay at a government housing area for victims, and she fled.

The agents supposedly were going to go back to talk to the rest of the girls after she made this outcry because, I

15:44

guess, they were as baffled as I am why the agents would not follow up on a lead. You know, that's a very important lead. After that day, there were no attempts for the agents at all to follow up on that lead again. Then they were constantly following us. They knew that illegal activity, according to what they are alleging, was taking place, but did nothing to stop the promotion of criminal activity. In other words, they promoted criminal activity from continuing to happen and become greater.

At that point, from September 1st, 2011, to December of 2011, there was another incident involving a alleged individual by the name of C.V.C., which a family friend had reported her missing, okay. In that particular situation, she made an outcry also that -- well, not an outcry, but she did state that she had been working for me as a prostitute, and I had taken her to an adult bookstore, okay.

And the problem that I'm having trying to comprehend is what do they teach these agents about investigating? The agents had the opportunity to go to that adult bookstore, obtain surveillance video to clarify and verify the allegation of that individual that we were indeed at that establishment at the time that she is alleging.

There is no -- there was no evidence introduced to that for whatever reasons that the agents feel that they can circumvent the law and not provide evidence that is critical to

15:46 the jury and also here for sentencing purposes to prove that I, indeed, commit the act, that I did take her to this bookstore, and I had participated in a sexual act with her. There is no evidence that they had presented. I have -- of course, by not testifying because of my attorney during trial talking me out of it was not able -- I was not able to produce this testimony that I'm now giving to the court at this time.

Jumping from December of 2011, Your Honor, to approximately April, March -- let's go back to March 2012. There was an individual by the initials J.T. Okay, she was an individual that was arrested for prostitution in a sheriff department sting at La Quinta on -- I believe on Viscount. And during this sting, the individual made an outcry that she was a sex trafficking victim. She alleged that she was lured into sex trafficking. And police agents took her statement.

And, basically, the problem that I'm having with this particular individual more importantly is that she was a key figure in all of this. She worked with me until the day before I was arrested, Your Honor, June 20, 2012. This incident happened in March of 2012, which would have been approximately three months later. Someone that is alleging being a sex trafficking victim, Your Honor, and being forced to do things against her will, why would she continue working for me? We have records that will show on the ads that I was placing that she was working for me during that time period, plus the

15:48 testimony of the women that were working for me during the time period, along with A.Q.

A.Q. was another key figure in this case because she was constantly in contact with B.G.G.T. During her -- during her time working for me, like I said, these girls were a fraternity. They all collaborated, corroborated, and did their own thing. These girls were not victims in any way, shape, or form. And I will explain to you why.

These girls that are alleging that they are sex trafficking victims was all part of a scheme that was concocted by one or two girls that were working for me, which one of them was my co-defendant, Martha, M.J., the initials. The thing of it is here, Your Honor, is that these women were stealing customers from the service. If they had a fear of me, why would they fear me, but not fear to steal from me? Okay. The evidence on record will show that these girls had customers' phone numbers.

There is a young lady that is in court today with the initials of M.R, and she was an individual that I fired for seeing customers outside the service. And in retaliation for having fired her, this is what transpired, was these allegations between her and her husband, which was also a witness, the initials D.S.

These individuals, basically, were all escorts prior to coming to work for me. The escort services that they had

15:51 worked for was -- one of them was the individual -- was an individual who was arrested a couple of months back by the name of Maria Blake. The young lady that's here in court that did testify in trial, the initials R.O., was working for Maria Blake. She continued to work for Maria Blake after my arrest. These were, of course, all facts that my attorney did not bring up in trial. For deficient purpose -- for because of a deficient performance, his lack of failure to follow investigation procedures and, you know, follow up on the leads that I gave him and also information.

Like I said, the initials R.O., she is a -- I guess you can say a veteran at what she is alleging that I did to her. There are confirmation by G.G.T. that R.O. is, indeed, a long-time friend with Carolina, which was arrested in that false documentation arrest on September 1 of 2011. She is a good friend of -- R.O. is a good friend of Carolina. And she was basically referred to me. R.O. stated in trial that she saw the newspaper ad. It was misled by me, okay.

And the problem that I'm having here with that is that if she knew Carolina -- Carolina was working for me, and she was arrested for false documentation and fled the country after being considered a trafficking victim, why would she come to work for me if Carolina had made an outcry being a sex trafficking victim? Why would she come to work for me? When she came to work for me, she told me that Carolina had sent

15:54 her. And B.G.G.T. verified in trial that they were friends.

The next thing is, going back to J.T, J.T., when she was working for me, me and her had a close relationship. And during that relationship, she was caught, I guess, in a storm between agents and myself. She had told me that during the time frame that she was arrested in March of 2012, Your Honor, that she had met with Homeland Security.

And if I remember correctly, I think it was Agent Peter Angell. I'm not sure, but I know that she met with Agent Miranda because she described him to me. And, basically, what she was telling me is that they wanted to arrest me, but they needed her to continue working for me to continue, of course, I guess, just keeping an eye on me as to my whereabouts and my activity.

And, basically, at that point, A.Q. was brought into the picture approximately two days or the day before. I can't recall exactly. But J.T. told me that A.Q. was coming to the hotel to talk to them about the arrest of B.G.G.T. And what I'm going to do is I'm going to go back through -- back to B.G.G.T., to tell you a little bit about the --

MR. NUNEZ: May I have a second with Mr. Marquez?

THE COURT: Sure, of course.

(Consultation off the record between Mr. Nunez, Mr. Vasquez and Defendant Marquez)

THE DEFENDANT: Going back to this B.G.G.T., B.G.G.T.

15:56 was my right-hand person at the time of her arrest. B.G.G.T. was arrested in May 2012. And, basically, what transpired there is that agents had received information about B.G.G.T. being in the country illegally by J.T. Agent Miranda, Peter Angell, along with other agents were aware of her illegal status because of J.T., J.T.'s arrest in March of 2012. What happened was is that, in 2011, during the raid at La Quinta, where there were eight women there --

THE COURT: Mr. -- I'm aware of --

THE DEFENDANT: Okay.

THE COURT: Every single fact that you pointed out was either directly or indirectly brought up during trial. And as I mentioned previously, we are not here to deal with the evidence. We are not here to deal with guilt or innocence. We are here to deal with --

THE DEFENDANT: Mitigation.

THE COURT: No, sir. We are here to deal with sentencing, what you have to say on your own behalf that I should consider before I make a decision. That said, Mr. Marquez, your rehashing your discussion of trial evidence does not help me because the jury already found you guilty. So I would suggest to you --

THE DEFENDANT: So new information would not mitigate my sentence?

THE COURT: That is not new information. You are

15:59 calling it new information, but it is not. So what I'm suggesting to you is that discussing facts about what gave rise to the charges the government brought against you at this junction is irrelevant because the jury found you guilty already. The jury found you guilty on seven counts. I set one of them aside, so I'm here to sentence you on six counts.

You may argue all day long. You may continue discussing the evidence, and you may continue to insist that, based on all this evidence, you are not guilty; that based on all this evidence, you didn't coerce, that you did not threaten, that you did not intimidate anybody to work with you. And I respect that. You have a right to feel that way. And that is something that you rightfully should bring up before the court of appeals.

But that's not what we are here for today. What we are here for today is for me to issue a sentence on each of those counts, predicated on the verdict of the jury. So, yes, I am not shutting you down. You may continue to talk. But it is not going to help you because you haven't brought up anything that I should consider in terms of sentencings.

THE DEFENDANT: Can you define then mitigated -- "mitigating evidence" then?

THE COURT: "Mitigating evidence," in simple terms for you, is what I was trying to explain earlier about what that testimony of those experts deals with. In other words,

16:01

anything that would make me take a different light or look under a different light at the sentencing guidelines, anything that would make me look at these guidelines and say: It should be something less than that. That's a simple way of explaining that to you.

THE DEFENDANT: Okay. So, basically, everything that was said and not said in trial would be irrelevant, you are saying, at this point?

THE COURT: I'm sorry? Ask me that again, please.

THE DEFENDANT: That everything that was said and not said during trial, things that my attorneys didn't bring up, so none of that is going to be considered mitigating evidence?

THE COURT: Mr. Marquez.

THE DEFENDANT: That is what I'm asking you. It is a simple yes or no.

THE COURT: Mr. Marquez, Mr. Marquez, the jury found you guilty. Today, we are here to hear what you have to say, what your lawyers have to say, what the government has to say, what the victims have to say. And then once I take all that in, in addition to everything that I have reviewed thus far, I will make a decision about your sentence, about each of those six counts. That's what we are here for today.

THE DEFENDANT: Can you give me just a moment with counsel?

(Consultation off the record between Mr. Vasquez,

16:02

Mr. Nunez and Defendant Marquez)

THE DEFENDANT: Basically, what you have heard before the court today are stories that were presented by people who claim to be victims. No real victims or crime committed, just stories. We are barraged by stories every day, especially overzealous police mentalities. Most are in the news. Most come by the way of media which sensationalizes and twists the reality to give us something to sink our teeth into, something salacious, something scandalous, something shocking, violent or horrible. Sometimes these stories have semblance to the truth, and sometimes they don't.

You see, the prosecution's job was to tell a sensational story that will get you to convict someone, along with the agents. That's how they win. That's how they get their convictions. They chalk up a win, an acquittal, a loss.

But before this court, we were seeking truth, not presumption of what may or may not have occurred as proposed by the prosecutor and the agents. Remember, no real victims or crime committed. In order for you to find the truth and mete out that justice, you have to realize where the agents and the prosecutors stand. Or do they stand?

I am a man here who has been wrongfully brought before this court convicted of just scandalous charges, charges that they weren't able to substantiate and bring actual proof as Mr. Nunez had discussed on other trials.

16:05

There was an individual that's in the court by the initials R.O., who during trial had produced a picture of me counting money. Why didn't they -- if I was threatening these girls, why weren't these threats ever recorded? Agents had everything that they could have used against me if the threats were real, pictures and recordings. I am a man who is a real victim here of hidden agendas that the prosecutions and agents have brought before this court. I ask the court, is that fair?

Do we just assume that everyone is guilty and lock them up with no real cause, no real investigation, just allegations? Was this in retaliation for something? Maybe. I have been the subject of investigation for the last 15 years with no concrete evidence ever for any law enforcement agency to prove anything, just allegations. These allegations were from paid witnesses, as you have heard. Why is that? People that never requested assistance from the government were given benefits. Why, if they didn't ask for it? And why weren't they arrested, more importantly, if they allege that they were doing something illegal?

They were never -- they were never prosecuted. They were never arrested or booked. Just given benefits that the government continues to contend that they never offered any benefit to these individuals. The benefit alone was that they weren't arrested for prostitution.

Now, not all the law enforcement -- not all law

16:07 enforcement are corrupt or malignant. We all know that. But some are. But some of us all know that there is another side to law enforcement, a vicious mindless beast that wants to punish someone, anyone. This is the very beast that has rallied and that was unleashed against me.

I have been incarcerated for over 26 months for something I never did, nor can the law enforcement really prove without asking the court to speculate on their cause against me. Why speculate? I have prayed each day since my imprisonment that the real truth shall be revealed. That day is here.

I ask Your Honor to listen to every word carefully and to relate to my grief that I am going through, to remember that anything that the prosecutor says will be clouded by unfettered hatred towards me. It is very easy to point the finger at someone, but to prove it is something else, something that the prosecution -- allegations.

Agents in this case failed miserably to be thorough in their findings. The prosecutor, judge, jury, and executioner made the final judgment of who was innocent and who was guilty. Agents failed to collect all proper evidence, if there really was any. Pictures and recordings that, in fact, would have implicated me to their alleged story they presented before this very court back last November.

So the jury could have examined it, left it to the

16:10 jury to decide, as the judge has said, who was guilty, and not for the prosecutor and agents to ask you to speculate as they did. It was the jury's job to interpret the evidence. As you witnessed, this didn't happen. Why? The jury was denied a proper investigation to evaluate, as well as the defendant. Of course, that's what the agents and prosecutor wanted, because their egos are so inflated. It is what they consider organized criminal activity and absolute immunity.

As I understand the law, the due process clause and the equal protection clause are at issue. Should we give the prosecution immunity from that, too? Because of the greed and kudos, agents, as well as the prosecutor, could benefit from this case, they chose to inflate and color their stories.

How would anyone else ever know the truth? That's why they are called "allegations." This is the best that they could do for the last 15 years.

Agents claim that the witnesses claim they broke the law. If so, why weren't they arrested and charged with a crime, if they had not received any promise of benefit beforehand or asked in exchange for cooperation with this case? That's an excuse for spending taxpayer money to get them to inflate their stories.

Not being arrested and charged is already a benefit. Instead of just doing their job and leaving matters to the jury to decide who is guilty and who isn't, it was made clear that

16:11 they would do that to secure a victory. Whatever happened to balancing the scales of justice and the equal protection clause of the 14th Amendment, or is there still a Constitution?

I ask this court to consider every word carefully, so you will not fall into the same trap that the jury fell into, into deciding what is or what wasn't the real truth about matter at hand. Remember, everything that was said at trial was just a story, no real evidence, just allegations.

Doesn't it make people sit up and listen when someone is talking about prostitution? Sure. Even more when you scandalize and sensationalize something people can't verify for themselves. What a sensational story. But remember, it is just a story that's far from the truth.

What the jury was not granted was the opportunity to truly be able to decide for themselves was the charge given to them by the court, to define -- to find the defendant guilty if beyond -- if so, beyond reasonable doubt. This meant that a reasonable person would not have a single doubt that the prosecution's story was true. And, as you can see, if you haven't already, is that the story and charges are remarkably doubtful.

You have witnessed at trial, and now here today before this court, agents so aggressive and so bent by lies and hatred willing to do whatever they have to to further their careers. Acquittals don't get promotions. You will also find out that

16:14 the agents and the prosecutor didn't quite follow the laws written. The law states that, in order for a conviction to stand, the accuser must have complied with law, procedure, and form. The agents in this case, Agent Miranda, first of all, did not have the field experience to qualify as an expert witness. At the date of my arrest, his actions were all questionable if you look at the big picture.

The agents, Miranda and Peter Angell, in their investigation were sloppy and erroneous, for lack of better judgment. Or was there? Special Agents Anthony Miranda and Peter Angell, during their investigation, must have had their minds racing with the kudos they could win if they played this right. Let's not forget the prosecutor also, Mr. Newaz. This would further their careers. Or will it?

By sounds of things, the prosecutor and agents are very well-versed in the art of witness tampering, bribery, and intimidation. Let's not forget all legal, of course. As you can see their actions were all conspiratorial.

In closing, I would like to add that justice is neither a mystery, nor a crap shot, but a major purchase by the prosecution. Spend the taxpayer's money thoughtfully, offer lots of incentives to witnesses, and you will get your convictions. Thank you.

THE COURT: Mr. Newaz.

MR. NUNEZ: Your Honor, may I, before Mr. Newaz?

16:16

THE COURT: Sure, yes, sir.

MR. NUNEZ: Your Honor, I just want to clean up some things that Mr. Marquez says. He did state that he had some people working for him in a service. What he meant by that was that he was -- he had a service that offered companionship, but not a service that offered sex for money.

THE COURT: I understand. Like I explained to him previously, I knew the difference between argument and evidence. And he is simply making his argument. And I respect that.

MR. NUNEZ: I just don't want the record to be sloppy and somehow someone interpret that he made an admission at his allocution that he was involved with a service that offered sex for money. One -- a couple more things, Your Honor, that I forgot to mention. Mr. Marquez is 54 years old. He has twice been married. He has two children. He does have diabetes. He has an enlarged prostate.

Although Mr. Marquez has a strong personality, Your Honor -- and the court has seen it and the prosecutor has seen it. Just because he has a strong personality and just because he wants himself to be heard, Your Honor, I don't believe that merits a life sentence as recommended by the PSR.

Respectfully, Judge, I am recommending to the court or suggesting to the court a sentence between 15 to 20 years. If the court imposes such a sentence, Mr. Marquez would probably

16:17 serve most of the sentence, and he would be getting out close to the age of 70. I believe a sentence within that range is appropriate, given all of the circumstances involved in this case. Thank you, sir.

THE COURT: Mr. Newaz.

MR. NEWAZ: I agree with Mr. Nunez in that his personality doesn't warrant a life sentence. However, his actions do. He has been involved in this organization of prostitution, forcing women to get involved, do things they didn't want to do for, by his admission, over two decades. And this law enforcement community of El Paso failed our community in 1999 by giving this man a deferred adjudication on a misdemeanor, when they could have nipped it in the bud then.

And my only regret is that it took us 13 years to rectify that problem because this man has been a blight on this society for over a decade. He has brought not only prostitution here, he has wrought pain on the people that have worked for him. And while they may just be stories for Mr. Marquez, they were evidence on the stand.

After seven days of trial, the jury took approximately one hour to come back and convict him on every count. And while Mr. Marquez may not see any other victims other than himself in the courtroom today, there are three sitting right there. Whether or not he thinks he harmed anybody is really irrelevant because the citizens of this community saw it

16:19 firsthand and came back, and they came back with a strong decision quickly. And that was to send a message, not only to Mr. Marquez, but to the community that this type of behavior would not be tolerated.

And the reality is men like Mr. Marquez are actually more dangerous than men like Mr. Wiggins. And I will tell you why. Because men like Mr. Wiggins rely on their physical brute strength to damage and harm people, forcing them -- forcing them to do what they want them to do. Men like the defendant rely on their guile. The reality is, if he comes out at 70 years old, considering that he doesn't think he has done a thing wrong, there is going to be nothing stopping him from doing this again: Taking advantage of women who are down on their luck, taking advantage of women who are easily manipulatable, taking advantage of women who are easily frightened because that's what the defendant did.

This isn't about prostitution, Your Honor. This is about sex trafficking. This is about a man who took advantage of countless women for his own financial and sexual gain.

I was asked many times while we were preparing for the sentencing: Do you think the defendant deserves a life sentence? And I answered every time with a resounding "yes," because the reality is what you have sitting over there is a serial rapist. You have a man that raped women for decades. You have a man that led and facilitated other people to rape

16:20 women for his financial gain.

And the reality is a person like that deserves no sympathy, deserves no remorse, and deserves to be locked up for the rest of his life, so he can reflect upon what he did. And that's what we would ask you to do in this case, Your Honor, because the reality is this man has no remorse. He has no regard for anybody other than himself. He said it. He said that the only victim in this courtroom is him. He doesn't think he has done a thing wrong. And nothing this court says is going to change his mind. And that should scare everybody in here because the reality is any -- any point in time he's set loose, he is going to do it again.

In 1999, after he got that deferred adjudication, what happened? Did he just close up shop, not do it anymore. Did he learn his lesson? No. He got arrested for rape. Frankly, that 2005 rape is really frightening because it mirrors the facts of what happened to the juvenile C.V.C. He took an 18-year-old girl in that case to the Venus adult bookstore, had sex with her against her will, because she expressed an interest in working for his escort service.

He has been at this for a long time, and he is not going to stop. The only way he is going to stop is if we make him stop. And the court has the power to do that today. The guidelines have said that this man deserves a life sentence. He is quite literally off the charts. He is a level 45, which

16:22 doesn't exist. He is off the charts because of the actions that he has taken. He deserves a life sentence on count one and two. He deserves the maximum sentence on the remainder of the counts because he is just not going to stop.

This is a type of man that takes advantage of a 16-year-old runaway to work as a prostitute, knowing her age. That's the type of man that sits before you today, Your Honor. And what -- does he show remorse? To the contrary. He brags about it in the jail. And I know the court has seen some of the reports from some of the people that share a cell with him, where he was bragging about having sex with a 16-year-old girl. He doesn't feel bad about it. He would do it again in a heartbeat. His only regret is that he got caught.

But at the end of the day, my words really ring hollow. The words that should matter are the words of the defendant himself and the words of the victim.

We read a lot of text messages throughout the trial. I would just remind the court of one of these exchanges, which was in Exhibit 58 in the government's -- the government's exhibits. The defendant talked about a girl named Kissla who was working again that he had fired. And in a text message exchange with the john, he told the john: Kissla is working again. She filed for amnesty. Laughing my ass off, bitch. Yep, the bitch came down on her knees, laughing my ass on -- off. She will be working until 6:00 a.m. I am going to

16:24 decrease the pay also, no American dollars. She will be now paid in pesos, laughing my ass off. I need to test her from behind, ouch, laughing my ass off. Ha, ha, ha, ha, ha, ha. Yes, the bitch said she is willing to give up the back door to come back to work.

That's the type of man that sits here. Those are his words. He wants proof beyond testimony. This came from the defendant's phone. These are his text messages. This is what he says to his customers about the people he refers to as his employees that are just working for him. That is how he treats the people who work for him.

We heard testimony from countless victims in this case. Irma Garduno told us, testified -- and you can see this in Volume 4 of the record on page 37 -- *Mr. Henry stated to -- started to say that we have to behave ourselves and we had to do what the clients wanted. Otherwise, he was not going to be a good person.*

When asked to clarify that, what did she mean by not going to be a good person, she said, *Well, for example, perhaps hurting us or hurting our family.*

She was cross-examined as to how a college-educated woman could fall into the trap of the defendant. What did he say -- or what did she say? I really think this was the greatest response we heard throughout the trial. Irma Garduno's response was: *My level of IQ doesn't determine my*

16:25 *self-esteem.*

The reality is he preys on women who have different vulnerabilities, and he figures out how to take advantage of them because he is a master manipulator. He has tried to manipulate the court and the government from the beginning, and it has failed. And you can see how angry it has made him throughout the proceedings.

Karla Gallardo told us about how she was afraid when federal agents came to testify -- or to come to talk to her, in Volume 4 on page 87, when she was talking about Henry, said she was afraid he may take retaliation against her. Because she listened to the facts that when a girl would behave badly or do something bad, he would send threats to her.

When asked to clarify the threats, she said, *Well, to leave him alone, for not bothering him because he would put them on the bridge.* When asked to clarify what it meant to put them on the bridge, he said -- she said, Because he could call the bridge, and let them know what kind of work they were doing -- we were doing coming over to do and that would essentially lead them to be deported.

She also said she was afraid that something would happen to her because the defendant knew her address. There were times when she rented the rooms, had to give her identification, and he kept all the receipts. And she said, *You see so many things, and sometimes even though people are*

16:27 *inside a jail, they can still send people to create or do harm to one.* When asked to clarify what harm she was referring to, she said, *Well, even someone to kill us.*

That is the type of fear that the defendant instilled in these people. He may not have put his hands on them, but he made them afraid that they were going to get killed or deported. Some harm would come to them if they didn't do what he wanted them to do.

Hermelinda Cordova Perez talked about how she tried to leave working for the defendant after the first time she ended up finding out it was prostitution. This is in Volume 3, on page 127. She was asked: *What happened when Henry called you again?*

ANSWER: He told me I had to return to work.

QUESTION: Did you resist?

ANSWER: Yes.

QUESTION: What happened when you resisted?

ANSWER: He told me I didn't want to know his bad side.

QUESTION: Did he give you any details on what that meant?

ANSWER: That he already had information and he had friends in Juarez.

Again, he may not have struck these women like Wiggins did, but he sure created a climate of fear to make them think

16:28

bad things would happen to them.

Page 132 of the record: *During the two-year period --*

QUESTION: During the two-year period that you worked for defendant, did you attempt to quit working for him?

Again, Hermelinda Cordova Perez: *Yes.*

How many times?

One time.

She goes on to describe that when she tried to quit working, he had the co-defendant call her up at her legitimate job in Juarez and inform her that he knew where she worked.

He wasn't giving these women just threats on whether or not they were looking for other clients, he made it clear to them that they were going to do what he wanted to do, they were going to work when he wanted them to work, or bad things would happen. He didn't have to put his hands on them. He didn't have to strike them to instill that type of fear.

But the reality is he did put his hands on them because he raped several of these women, including Hermelinda Cordova Perez. On page 142 of the record:

QUESTION: How soon after you started working for the defendant did he try to have sex with you?

ANSWER: A month.

QUESTION: What happened on that occasion?

ANSWER: It was the end of the day, and he said I had an appointment. When it came time for the appointment,

16:29

instead of the client coming in, it was him.

QUESTION: When the defendant came in, what happened after that?

ANSWER: I asked him where the client was.

QUESTION: And what did the defendant say?

ANSWER: That he was the client.

QUESTION: What did you do when the defendant said he was the client?

ANSWER: I told him I wasn't going to have sexual relations with him, and he told me it's been a month, and I had to show him what I learned.

QUESTION: What happened after the defendant said that?

ANSWER: He took off my clothing and forced me to have sex with him.

It was difficult for her to talk to, but we asked for more details, and the defendant -- and Ms. Cordova said: *He threw me on the bed, he put a condom on, and he went inside.*

QUESTION: What did you do when that happened?

ANSWER: I cried.

QUESTION: How did he react when you cried?

ANSWER: He didn't do anything. He just laughed because I was bleeding.

But Mr. Marquez doesn't think that was a victim. Just him.

16:30 Rosa Aguilar testified, Volume 3, page 85, as to why she would do this type of work. *My daughter was little, and I couldn't feed her. I couldn't buy milk. I couldn't pay my rent.*

That's why they did these things, not because they wanted to. But after she found out about that this was prostitution, that first time, she explained, on page 87 of the record, when she -- all the women had left, and did the defendant say --

QUESTION: Did the defendant say anything to you at that point?

ANSWER: Yes. He gave me a condom.

QUESTION: Did he -- other than giving you a condom, did he say or do anything else?

ANSWER: Yes. He told me good luck.

But again, Mr. Marquez doesn't think this person is a victim. He just misleads them. He uses fraud to get them into doing what he wants them to do so he can make money. But not victims in Mr. Marquez' mind.

Our juvenile C.V.C., Volume 4, page 112 of the record: She testified that it was more like -- more than 15 people a week she had sex with. And I want the court to really think about that, because she was 16 at the time, which means that because of the defendant's actions, 15 or more men a week committed sexual assault of a child unknowingly because he

16:32 directed her to lie to these individuals about her age.

Ana Quezada, Volume 5, page 30: *I would have sexual relations with customers five or six a day. The Tampax would get introduced so deeply a lot. On one occasion, I was in my period, and I had from six to seven clients from about 2:00 in the afternoon to 7:00 p.m. And because it was my lucky day --* which if the court remembers was one of the ways the defendant punished his victims -- *I didn't have a chance to take out my Tampax and put in another one. And so I had a lot of clients. I didn't have a chance to change my Tampax, and so it dug in very deeply into me, and it started hurting. And he was in the room, and I was there with several of the other girls, and it was hurting me a lot. And the girls all tried to help me remove the Tampax, but they couldn't because it had gotten in too deep. One of the girls started rubbing my belly downward so the Tampax would start coming out. She put some lubricant in my private parts. She put it in her fingers, but she couldn't find the Tampax. For me, by then, it was very painful. They kept rubbing my stomach. One of the girls was rubbing my stomach, while one was putting fingers and couldn't find the Tampax. I got frightened, and I got angry, and I told Henry, if this Tampax doesn't come out, you are going to have to take me to the hospital. You are going to have to pay, and I am going to call the police. And Henry is very tight. He said, Calm down. Everything is going to come out all right.*

16:33 *The Tampax is going to come out all right. Go into the bathroom. Put in a lot of hot water, put some salt, and it will come out. And hurry up because your next client comes in about 20 minutes.*

These are the stories, the evidence that we heard at trial nine months ago. They are not allegations anymore, like the defendant keeps referring to. He has been found guilty of these offenses. They are not allegations. They are not stories. The jury came back with a very decisive, a very quick verdict. The guidelines are off the charts for the defendant. And the government would ask that the court follow the guidelines and sentence the defendant to life in prison. And, Your Honor, I will have -- we have three victims to come testify at this point.

THE COURT: Go ahead. Call them to the witness stand, please.

MR. NEWAZ: Your Honor, the first one will be Ana Quezada.

THE COURT: Very well. I think the podium will be fine. I misspoke. She can speak from the podium.

Just, Ms. Graffos, explain to her sequential interpreting so that she gives you the opportunity to interpret.

You can proceed, ma'am. Please state your name first.

ANA QUEZADA: (Through interpreter) My name is Ana

16:35

Quezada. I am 25 years old. I know Mr. Henry who says that he didn't prostitute any of us.

THE INTERPRETER: Who says he didn't prostitute any of us.

ANA QUEZADA: (Through interpreter) And what he said was true. The Tampax hurt a lot. And he was sitting in the bed right next to me.

Do you remember?

THE COURT: Ma'am, you are speaking to me. You don't have to address him or the government lawyers. You are speaking to me. Go ahead, please.

ANA QUEZADA: (Through interpreter) Okay. We couldn't take the Tampax out for several hours. He just simply said for them to rub me and to put out a tub of hot water with salts. And for me to -- for it to go out and for me to hurry up because I had an appointment in 15 minutes.

Another thing, I had two infections, which are called contagious mollusks because I had an appointment with a homeless individual and with a person that I don't know what he had, but he had a lot of different kind of fungus throughout his body. I got treatment in Juarez, and they were able to remove it through laser.

I feel psychologically damaged. I don't need to read this because there are things that stay recorded in your brain, and they are not going to go away.

16:38

Also, when I went against what he was saying, he would tell me that next day: Today is your lucky day. And I would get from 9 to 12 appointments. And in those, I had to go back to the doctor in Juarez to get medication because my uterus and my vagina was very inflamed.

He said I couldn't leave his employment because nowhere, not at Wal-Mart or McDonald's, were they going to pay me what he was paying me. He always told me I was a piece of meat because I didn't pretend to like the clients. At one time I answered, I don't have to pretend because I don't like them. And he said, You have to pretend. That's your job. You have to tell them that they are big, that you like them, and that you like it.

One time, I was at an appointment at Quality Inn on Montana and Geronimo with a cholo who was carrying crystal. I called the girls. And the girls were able to get me out because the guy was totally drugged out. That's all.

THE COURT: Thank you. Thank you, ma'am.

Your next victim.

MR. NEWAZ: Your Honor, the next victim who wanted to speak was Rosa Aguilar.

THE INTERPRETER: Thank you, Your Honor.

THE COURT: What is your name, ma'am, please?

ROSA AGUILAR: (Through interpreter) Rosa Aguilar.

THE COURT: And, ma'am, as I told -- as I told the

16:41 lady before you, you are speaking to me. You are not speaking to the defendant. You are not speaking to the government. Do you understand?

ROSA AGUILAR: (Through interpreter) Yes.

THE COURT: Go ahead, please, ma'am.

ROSA AGUILAR: (Through interpreter) My name is Rosa Aguilar. I am 23 years old, and I lived in Ciudad Juarez. I worked for Henry during four months. I thought the job was different, but it wasn't that way. He says he is innocent, that we are the guilty ones. And that's not true.

I had to have relations with many men. And, also, they would beat me up. They would humiliate me. They would abuse me. I would tell him and he would say, It's not true. That it was part of my job. That I was trash. That I wasn't worth anything. That I have to endure it. That no one was going to hire me because I was illegally in this country.

That, in Juarez, there was no future for me. That if I didn't want to do the work, that I had to pay him. There were times when I would answer back, I don't want to work. He would answer, Okay, my love, you are not going to work anymore. This is your last appointment, but I am not going to pay you.

One time, I had an appointment --

THE INTERPRETER: I need a clarification.

ROSA AGUILAR: (through interpreter) -- that was five hours long. The man had a lot of cocaine, beer, pornography.

16:45 I told him I didn't want to be with him, but he said I had to pay him that money. So I had to endure five hours with him, enduring pornography, taking drugs, drinking in the morning, when I didn't want to. But I had no other choice.

When I told him, I don't want to be here anymore, I don't want to work for you, he said it was okay, it was fine. We were talking about that subject, and he said, You know I have friends in Juarez. Did you know that the person that left my job previously, we burned her car? That I have been in this business 15 years. That the police can't touch me. That you are going to come out on the losing side. That you are a dumbass for leaving all of this. I told him, I don't care. And so I wanted to leave at that point. And he said, Okay, but you are going to pay the consequences.

The day I left, in the early morning hours, I arrived on Sunday with my mother. And she said they had picked up my brother. That we had to pay a certain amount by next Sunday. If not, they were going to kill him. And it was all going to be my fault. I decided to come back because I couldn't put together that kind of money in a week.

He took his time in answering, but he finally answered, and he said he needed me at the bridge. I returned to work with him. And he said, You see, you can't do anything. And I paid the ransom for my brother. They came to my mother with a video, telling her that I was a prostitute, and that I

16:49 was one because I wanted to be one. And they were relaying that they were being sent by El Puercote.

They sent me to get beaten up, and they sent some to kill me, but they couldn't. But they destroyed my family, the only thing I had, the only thing that I had left. And it is not fair. He is not going to be able to repair all this damage. He is not going to return my family to me, my mother, my brothers, my daughter, my husband, none of that.

I am afraid all the time. I don't want to go out. I am quick to anger. I can't sleep. I am afraid. I don't know what to do. I would like to repair all this, but I can't. I can't do anything. I would like my family to forgive me, to understand me. That all of this is not my fault. I didn't want to. The needs that are in Juarez are very great. It is not easy. That's all.

THE COURT: Thank you, ma'am.

Mr. Newaz.

MR. NEWAZ: Finally, Mirtha Reyes, Your Honor.

THE INTERPRETER: Your Honor, she will be speaking in English, but she said if she gets lost, she is going to -- so I will remain.

THE COURT: Very well.

MIRTHA REYES: Okay, I wrote this. I was affected -- and the question is how I was affected. I was affected mentally and psychologically. Going to prostitution, it is a

16:52 very self-destroying position. I feel mentally degraded and lost all my self-esteem.

And if I wasn't feeling bad enough having -- going through all that, having Henry constantly harassing me until he sexually assaulted me, this was my breaking point and trauma that will mark me for life. I feel forced and humiliated. He took advantage of me in a vulnerable position. He knew I was going -- I wasn't going to tell on him, due to his prior threats against my life and safety.

After he sexually took advantage of me, I felt dirty and disgusted. Even when I took baths three to four times a day, I still felt dirty. And when I realized that my dirtiness wasn't going to go away because of my -- because it was mentally, I constantly found myself crying on the floor on my bathtub. I could not even kiss my kids good night or touch them due to me thinking that he probably had infected me with a disease.

I remember the feeling after I stopped answering Henry's phone calls. I was frightened. I couldn't stop -- I couldn't sleep. My nights and days were restless thinking he was going to knock on my door. I had to move to a different apartment, changing my phone numbers and cutting communication with the rest of the girls. I felt a little safe there. My fears didn't go away until I saw the news that he was arrested for sex trafficking.

16:54

I am going to share with you something that I used to do when I was working for you, while being used by you and other males. I will close my eyes for the longest time. I could hold on to thinking to myself it was already past an hour. And when I said an hour, most of those dates, that's what I lost, an hour. But seldom was it just ten minutes, ten minutes traumatizing by undesired males. Painfully powerful minutes, they marked me for life.

Now, time to time, I find myself looking at the clock and seeing that the time flies faster. I dare you to do it while you are sitting in jail, sitting down and close your eyes. Don't feel. Don't talk. Numb yourself to what's happening around you. And when you open your eyes, wishing that -- that time has been done, and it was just ten minutes, I hope you feel my pain, which in time will move faster.

THE COURT: Thank you, ma'am.

MR. NEWAZ: Your Honor, the only other thing the government would ask, if there is a forfeiture issue in this case, and I believe that was stipulated to at trial, I will just ask that the court make a ruling on that.

THE COURT: Yes, we will include that in the judgment.

I find that considering the 18 USC 3553(a) factors, I would reach the same sentence that I am going to issue at this time, irrespective of the sentencing guidelines.

Mr. Marquez, on count one of the indictment, I

16:56 sentence you to life imprisonment. On count two of the indictment, I sentence you to life imprisonment. On count four of the indictment, I sentence you to 120 months imprisonment. On count seven of the indictment, I sentence you to 120 months imprisonment. On count five of the indictment, I sentence you to 240 months imprisonment. On count six of the indictment, I sentence you to 60 months of imprisonment. All to run consecutively.

On the supervised release, on counts one, two, four and five, should you ever be released for whatever reason, you are going to be on supervised release for the remaining of your life. And on counts six and seven, three years to run concurrently.

I am imposing a $10,000 fine, which is below the sentencing guidelines range because I find that there are very limited resources from which to pay any fine that may be assessed against this defendant.

On the special assessment, I sentence you -- I impose the mandatory special assessment of $100 per count, for a total of $600.

Mr. Vasquez, Mr. Nunez, I am going to order you be appointed as appellate counsel. And, of course, should he decide not to have your services as appellate counsel, he will be free to take that up with the court of appeals. I am going to sign the judgment on this case tomorrow.

16:57 During your term of supervised release, again, should you ever be released from custody, you are going to be required to register as a sex offender and comply with the mandatory and standard conditions in place at the time of your release.

I wish you well, sir. We are adjourned.

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signature: /s/Nalene Benavides Date: October 21, 2014
Nalene Benavides, RMR, CRR